

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JAMES D. SMITH,

Plaintiff,

Case No. 1:22-cv-30-CL

v.

ORDER

JAMES K. HEIN, TRANSITION PROJECTS,
INC., HOME FORWARD OF
MULTNOMAH COUNTY,

Defendants.

MCSHANE, Judge:

Magistrate Judge Mark D. Clarke filed a Findings and Recommendation (ECF No. 29), and the matter is now before this court. *See* 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Plaintiff filed objections to the Findings and Recommendation. Accordingly, I have reviewed the file of this case *de novo*. *See* 28 U.S.C. § 636(b)(1)(c); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). I find no error and conclude the report is correct.

Plaintiff generally objects to Judge Clarke's recommendation to deny Plaintiff's motion for appointment of counsel. Although Plaintiff alleges mental impairments, the Court concludes his complaint and briefings demonstrate he is able to articulate the nature and substance of his

claims. Additionally, the Court agrees with Judge Clarke's conclusion that Plaintiff's claim is barred by claim preclusion and *Rooper-Feldman*. Plaintiff's objections only reinforce this conclusion. For instance, Plaintiff argues:

Both defense counsels, have relied on a legal theory of *res judicata* in their Motions to Dismiss, which is invalid, because plaintiff has never received a determination made on the merits of his potentially meritorious lawsuit. Additionally, when defense counsels argue that there was a final judgment entered in the case they are referring to part of an illegally altered settlement agreement, which plaintiff argues is fraud and conspiracy, in violation of federal law and plaintiff's constitutional rights.

Objections, 14; ECF No. 31.

But as Judge Clarke noted, federal courts lack jurisdiction to determine whether an allegedly altered state court judgment was lawful. Findings and Recommendation, 6. Plaintiff appealed the state court judgement to the Oregon Appellate Courts. That Plaintiff was unsuccessful there does not grant him leave to challenge the allegedly altered judgment in federal court via a new civil complaint against the same defendants. The Court agrees with Judge Clarke that "Plaintiff is precluded from attempting to relitigate the matter in federal court. *Id.*

Magistrate Judge Clarke's Findings and Recommendation (ECF No. 29) is adopted. Defendants' motions to dismiss (ECF No. 18, 20) are GRANTED. Plaintiff's motion to appoint counsel (ECF No. 16) and to transfer venue (ECF No. 25) are DENIED. This action is DISMISSED, with prejudice.

IT IS SO ORDERED.

DATED this 11th day of August, 2022.

/s/ Michael J. McShane
Michael McShane
United States District Judge